

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF
BILL WILLIAMS (Ground Water
Application No. 10522),

Appellant,

vs.

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY,

Respondent.

PCHB No. 70-9

FINDINGS OF FACT, CONCLUSIONS
AND ORDER

This is an appeal by Bill Williams, an adjoining property owner, from the Report, Findings of Fact and Decision, dated August 25, 1970, of respondent granting Ground Water Application No. 10522 of Edward H. Kirschbaum, Jr., for an appropriation permit.

This matter first came before the Pollution Control Hearings Board in an informal conference (WAC 371-08-105) in Olympia, Washington, October 30, 1970. At the conclusion of that hearing, it appeared to the Board that the various parties of this matter were working toward an amicable settlement. The Board, therefore, held this matter open.

The settlement, however, did not materialize. A pre-hearing conference (WAC 371-08-125) was held by the Board in Olympia on April 7, 1971. Appellant did not appear.

Respondent moved to dismiss this matter on the grounds of

failure of appellant to appear at the pre-hearing conference.

At the hearing of the Board on respondent's motion to dismiss, held in Olympia on April 21, 1971, appellant appeared and declared he wished to activate his appeal. The motion to dismiss was then denied.

The hearing on the appeal was held by the Board (Walt Woodward, hearing officer) at 1:30 p.m., May 17, 1971, in the King County Administration Building, Seattle. Appellant represented himself; respondent was represented by Charles W. Lean, Assistant Attorney General. Stenographic report was prepared by Louise Blakely of the court reporting firm of Shirley W. Marshall, Seattle.

Witnesses were sworn and testified, and exhibits were admitted.

On the basis of testimony and exhibits, the Pollution Control Hearings Board makes these

FINDINGS OF FACT

I.

There is a limited amount of public water available for domestic use during the summer months in the general residential area of Orcas Island, San Juan County, described in Ground Water Application No. 10522.

II.

There is a dispute between appellant and Edward H.

Kirschbaum, Jr., the applicant in Ground Water Application No. 10522, as to the best method of sharing this limited amount of water. Efforts by this Board, assisted by respondent, have failed to achieve a mutually satisfactory method of sharing the water.

III.

There are public ground waters available for appropriation on the Kirschbaum property.

IV.

The use of water to be withdrawn under Ground Water Application No. 10522 is a beneficial one.

V.

Ground Water Application No. 10522 is first in time of record with respondent.

From the foregoing Facts, the Pollution Control Hearings Board draws the following

CONCLUSIONS

I.

It is regrettable that adjoining property owners have not agreed on a cooperative method of sharing the limited amount of available water.

II.

Respondent, first having participated in efforts to achieve this cooperative method, cannot be faulted for ultimately recognizing the statutory rights of Edward H. Kirschbaum, Jr.,

in Ground Water Application No. 10522.

III.


Respondent, by restricting the proposed permit for Ground Water Application No. 10522 to two gallons per minute, 0.33 acre-feet per year, is recognizing the limited amount of water available in the general area.

Upon these Findings of Fact and Conclusions, the Pollution Control Hearings Board affirms respondent's action in granting Ground Water Application No. 10522.

DONE at Olympia, Washington this 23rd day of July 1971.

POLLUTION CONTROL HEARINGS BOARD


Matthew W. Hill, Chairman


James T. Sheehy, Member

Walt Woodward, Member